

A ROMAN LAW CONCERNING PIRACY.

By H. STUART JONES.

(Plate XX.)

When L. Aemilius Paulus visited Delphi after the crowning victory of Pydna his eye rested on a lofty pedestal, upon which his vanquished enemy, Perseus, was intending to set up a golden statue of himself.¹ He determined that his own figure should occupy the vacant place, and his orders to this effect were carried out.² No trace of the statue (or group) has been recovered, but there are considerable remains of the sculptured frieze, representing the cavalry skirmish which formed the prelude to the battle of Pydna, and it has been possible to reconstruct the monument in the Museum at Delphi with the surviving blocks and a free use of plaster to fill the gaps (fig. 54 and plate xx).³ On the base was the simple inscription (Dessau, 8884) :

L · AIMILIVS · L · F · INPERATOR · DE · REGE · PERSE
MACEDONIBVSQVE CEPET

For half a century the monument remained undisturbed ; but at length the *horror vacui* inspired by the waste of so much good writing-material prevailed. In 117 B.C. or thereabouts a mysterious decree of the Amphictyons relating to the restoration of certain Delphian exiles was engraved a little below the inscription of Aemilius Paulus to the left : it ends in the middle of a sentence with the word τε, and has been made the subject of one of Pomtow's fascinating speculations.⁴ Some years later an honorary decree for one Aristodamus of Patrae was added to balance it on the right, and in the early years of the first century B.C. four more such inscriptions filled most of the remaining space on the plinth above and below. In 66 B.C. the upper moulding of the plinth was requisitioned, and shortly afterwards the lowest block of the pedestal was covered with two copies (the second containing some corrections) of a decree in honour of a

¹ Similar monuments had been erected in honour of Eumenes II, king of Pergamon, and of Prusias II, king of Bithynia, in 182 B.C. (Dittenberger, *S.I.G.* 630, 632) ; a reconstruction of the latter is given by Pomtow in *Berl. phil. Woch.*, 1912, p. 444.

² Plutarch, *Aem. Paul.* 28.

³ Fig. 54 (from a drawing by Miss A. M. Calverley) gives a restoration of the monument as seen from the side. That the statue was equestrian was shown by M. Homolle in *Bull. Corr. Hell.* xxi (1897), p. 623, and our restoration which differs somewhat from

that of M. Tournaire (*Fouilles de Delphes, Album*, pl. xvi) follows a well-known type. A similar group, representing Philopoemen and Machanidas, was set up at Delphi by the Achaean league (Plutarch, *Philop.* 10) ; on the extant remains of the base and inscription see Pomtow in *Klio*, ix (1909), p. 160 ff. Plate xx gives a diagram, also prepared by Miss Calverley, of the narrow front with the inscription of Aemilius Paulus. The position of the other inscriptions is summarily indicated.

⁴ *Klio*, xvi, 50.

distinguished member of a family from Hypata which gave several στρατηγοί to the Thessalian League. But before this time the three courses next above had been used for inscribing the document which is the subject of this paper—a Greek translation of a Roman Law relating to the suppression of piracy in the Eastern Mediterranean. It was not until the Imperial period that the upper courses were turned to account by the lapidaries: in A.D. 98 two courses were occupied by an inscription in honour of a Roman proconsul, Caristianus

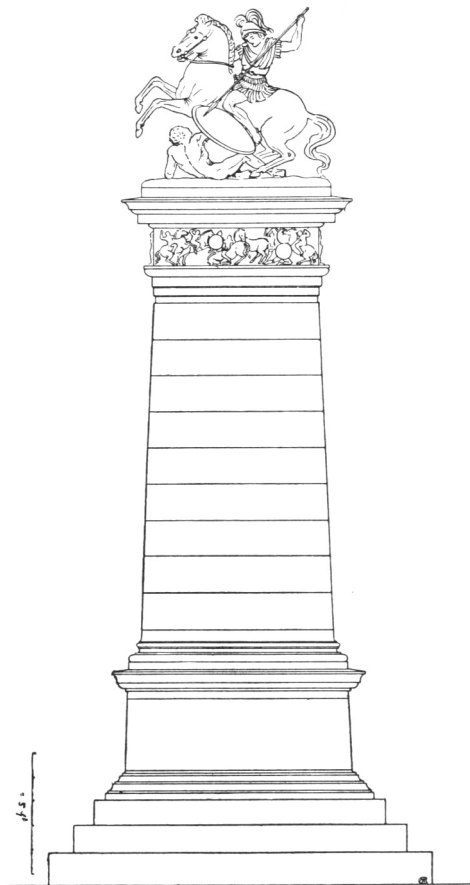


FIG. 54. RESTORATION OF A MONUMENT (AS SEEN FROM THE SIDE) AT DELPHI, ON THE PEDESTAL OF WHICH IS INSCRIBED A PIRACY LAW.

Julianus, and in the middle of the second century A.D. another Roman, Asinius Flaccus, was similarly honoured by an inscription on the topmost course.

It is clear that the text about to be discussed was the first to be engraved on the shaft of the pedestal, where it occupied a con-

spicuous position. Remains of the blocks on which it was inscribed were found at varying times between 1893 and 1896. It was first mentioned in a report by M. Homolle, published in *Bull. Corr. Hell.* xxi (1897), p. 621 ff.; a statement concerning it was made by M. Jardé at a meeting of the *Académie des inscriptions et belles-lettres* in 1904,¹ and it was referred to by Foucart (*Journal des savants*, 1906, p. 569), A. Wilhelm (*Jahresh.* xvii (1914), p. 98), Ferguson (*Hellenistic Athens*, p. 431), and Niese (*Grundriss der römischen Geschichte*, ed. 4, p. 184, notes 7 and 11). The text was, however, first published in full by Pomtow in *Klio*, xvii (1920), p. 172. Seeing that in one of the fragments the consulate of 'Marius and Valerius' (100 B.C.) appears to be mentioned, and that in another passage there is an allusion to the conquests made by T. Didius in Thrace, which certainly took place shortly before that date, it was generally assumed that the law belonged to the year 100 B.C. In 1923, however, M. Cuq made a communication to the *Académie des inscriptions et belles-lettres*,² in which he propounded the view that we have here a translation of the famous Law proposed by Gabinus, Tribune of the Plebs in 67 B.C., *de uno imperatore contra praedones constituendo* (Cic. *Imp. Pomp.* 52). Cuq's thesis was accepted by the editors of *Supplementum Epigraphicum Graecum*, where the inscription appears as No. 161 in vol. I under the title *Lex Gabinia de piratis perseguendis*, and it has been supported by Mr. M. Cary in two short papers in the *Classical Review* (xxxviii, pp. 60 and 162 ff.). An alternative suggestion that the law belongs to 74 B.C. and relates to the operations against the pirates conducted by M. Antonius Creticus, put forward by M. Jean Colin in *Rev. Arch.* xviii (1923), p. 289 ff., provoked a somewhat acrimonious reply from Cuq (*Rev. Arch.* xix (1924), p. 208 ff.) and a tart rejoinder from M. Colin in the same periodical (xxi (1925), p. 342 ff.). Cuq's theory was rejected by Mario Attilio Levi in *Riv. Fil.* lii (1924), p. 80 ff., and Prof. Ormerod replied to Mr. Cary in the *Classical Review* (xxxix, p. 15 f.); his argument is more fully stated in an appendix to his *Piracy in the Ancient World*, p. 242 ff. But none of these writers were able to take account of the very important publication of Prof. Gaston Colin of Nancy (the author of *Rome et la Grèce*) in *Bull. Corr. Hell.* xlvi (1924), 58 ff. Prof. Colin was in possession of material enabling him to give a fuller text than Pomtow. He was able to supply a fragment with the ends of eleven lines belonging to the top right-hand corner of course VI; he had a photograph (a copy of which he was good enough to send me) of the left-hand fragment of course VI when intact (it has lost a substantial piece at the lower left-hand corner owing to the crumbling of the stone and, it is to be feared, to some

¹ *Comptes rendus de l'Acad. Inscr.* 1904, p. 532 ff.

² *Comptes rendus de l'Acad. Inscr.* 1923, p. 129 ff.

³ Marked with a cross on pl. xx.

lack of care in preservation) and copies of a small fragment now lost on the right-hand edge of the block, which aid in the restoration of one or two lines.¹ He has moreover determined the true reading in several places where Pomtow was in doubt or mistaken. All students of the law must therefore use Prof. Colin's text,² but (as I shall endeavour to show) his restorations cannot always be accepted nor are his readings final. Mr. R. P. Austin of the British School at Athens very kindly examined the original for me at the request of the Director, and sent me a squeeze of course VII which has been of great value.³ Mr. Austin also gave me important information as to the space available for restorations.

I think, therefore, that in some respects an advance is now possible beyond Prof. Colin's position. M. Cuq, it should be added, has reaffirmed his view in *Revue historique de droit français et étranger*, 1925, p. 541 ff., with the modification (first proposed in a communication made to the *Académie des inscriptions et belles-lettres* in 1924)⁴ that our law is not the famous *Lex Gabinia* referred to above, but a supplementary enactment.

The document is undoubtedly a law (cf. *κατὰ τοῦτον τὸν νόμον* B 21, etc.). But it is fairly evident from the remains of the uppermost course that the preamble giving the names of the proposer, etc., was not engraved on the pedestal. The last word of B 1, if rightly read, may perhaps form part of the phrase [τὸ] κοινὸν | [τῶν Ἀμφικτυόνων] (with or without *συνέδριον*) and instructions may have been given to publish such parts of the law as seemed relevant. It is most unfortunate that so little of the uppermost block and of the first few lines of the middle block are preserved, for it is evident that they dealt with the regulation of the affairs of S. Asia Minor, since Pamphylia and Lycia are mentioned in A 6 and Lycaonia in B 4. Cilicia is not named in this part of the law, though it appears below in B 8; but the constitution of a command or provincia in that region might well have been dealt with in the missing portion. When we begin to get a more continuous text in B 5, it becomes possible to follow the measure clause by clause and to form a general, and in many cases a precise, idea of its provisions. It will be convenient to present these in a tabular form.

A. Instructions to consuls.

- I. Letters are to be written to the *civitates* and kings in alliance with Rome requiring them to withhold the use of their

¹ I desire to express my gratitude to Prof. Colin for kindly supplying me with photographs and information.

² It has not seemed worth while to reprint the text *in extenso*, but all references given in this article are to Prof. Colin's numbering of the lines. Mario

Attilio Levi (*Atti della reale accademia delle scienze di Torino*, lx (1925), p. 354 ff.) has criticised some of M. Colin's restorations.

³ I must express my thanks to Mr. M. N. Tod for kindly examining it with me.

⁴ *Comptes rendus de l'Acad. Inscr.* 1924, p. 284 ff.

territories from the pirates in order that the Romans and their Latin allies from Italy may carry on their trade in security in the East. [The letters to the kings are to be delivered to a Rhodian embassy.]¹

2. The safe return of these Rhodian (?) envoys is to be assured and, if other embassies arrive, they are to have audience of the Senate, whose decisions the magistrates and pro-magistrates are to carry into effect to the best of their power.
3. The Rhodian envoys in Rome are to have audience of the Senate *extra ordinem* and without delay.

B. Instructions to provincial governors.

1. The governor of Asia is to write to the *civitates* in friendship and alliance with Rome and to the kings above-named, and copies of the letter are to be engraved on bronze and exposed in a public place where they can be read by all.

(An obscure passage follows.)

2. The governor of Macedonia is to proceed to the portions of Thrace conquered by T. Didius (presumably for the purpose of organising them as part of the Province), and is to secure the due payment of sums due from *publicani*.²

(The passage which follows is mutilated.)

C. Instructions to quaestors.

The quaestors appointed for the provinces of Asia and Macedonia are given certain powers of financial control and of the infliction of penalties, with which no magistrate or pro-magistrate may interfere.

D. Sanctions.

I. Oath of observance.

1. The governors of Asia and Macedonia shall swear to observe this law within ten days of hearing of its ratification by the assembly.
2. The magistrates in office, exclusive of tribunes and ἑπαρχοί, shall swear to observe this law within five days of its ratification by the people.
3. Future magistrates (excluding ἑπαρχοί) shall swear to observe this law within five days of assuming office, if in Rome.

II. Penalties for breaches of the law.

1. The law is to be observed and the prescribed oath taken, and no one is to interfere with or obstruct its execution without incurring a penalty.
2. The penalty for each infraction of the law is 200,000 sesterces, and may be recovered at the instance of a common informer.

¹ This restoration is somewhat doubtful.

² In B 30 ὡςιν κἀρπειοντ[ες] should be read.

3. No magistrate or pro-magistrate shall interfere with or obstruct the process of recovery, on pain of an equal penalty for each act of interference.
4. In case of failure to pay the fine inflicted, the praetor who tried the case shall also preside over the proceedings for the recovery of the sum due.

We may now approach the question of the dating of the law.

1. If we could be sure of the restoration and interpretation of B 20 the question would probably admit of a simple solution; Prof. Colin's restoration is as follows:—

Στρατ[ηγός ἀνθύπατος, δς ἀν ἀποδειχθῆ εἰς Μακεδονίην καὶ
ε]ἰς Ἀσίην ἐπαρχείαν, Γαίῳ Μαρίῳ καὶ Λευκίῳ Οὐαλερίῳ
[εἰ μὴ ἐκεῖ] ἐπα[ρχ]εία ἐ[γέ] | νετο.

This errs in two respects:

- (i) The restoration of the title is much too long for the gap of 34·6 cm., which will allow of not more than about 33 letters. It seems to me improbable that the governors both of Asia and of Macedonia were named, and I propose to restore: στρατ[ηγός ὑπατος ἢ ἀνθύπατος δς ἀν πορεύεται ε]ἰς Ἀσίην. For the use of πορεύεσθαι cf. the *SC. de Stratonicensibus* (Dittenberger, *O.G.I.* 441, 59).
- (ii) The squeeze clearly shows part of the letter Υ after Οὐαλερίῳ and ὑ[πάτοις] must therefore be read. Prof. Colin's [εἰ μὴ ἐκεῖ] is impossible.

Now the words as they stand are clearly ungrammatical, and we are obliged, therefore, to assume some error on the part of the scribe. The simplest solution is no doubt to insert <ῶ> after ὑπάτοις, although, in view of the strange mixture of singulars and plurals which the translator allows himself, it might be epigraphically more probable that the draft used by the 'stone-cutter' had ὑπίτοις οἷς and that the second οἷς has dropped out by haplography. Now if a relative is introduced a further question arises. Is ἐγένετο a true aorist, or does it, as M. Gaston Colin suggests, represent the Lat. *fuert* in the future perfect sense (as perhaps εἰσῆλθεν in C 3 does, if we read [ἕως εἰς Ῥ]ώμην εἰσῆλθε[ν] = *donec Romam venerit*)?

In the first case the directions apply to the consul or proconsul to whom the province of Asia was assigned in 100 B.C., in the second (as Prof. Colin supposes) to the consul or proconsul who *will have* such province assigned to him. This latter supposition seems most attractive, and would permit us to date the law as early as 101 B.C. Those who (like M. Cuq) adopt a much later date for the law suppose that the date is introduced in order to define the limits of the province of Asia, in which they suppose alterations were made by M. Antonius as the result of his operations in Cilicia against the pirates: but it

seems incredible that, after the resettlement of Asia by Sulla in 67 B.C., we should find a law conferring on a governor the Province of Asia 'as delimited in 100 B.C.'

2. We are in no better case when we consider the allusion to the conquests of T. Didius in Thrace. The province of Macedonia had fallen on troublous times in the closing decades of the second century B.C., when the movement in Central Europe which brought the Cimbri to the gates of Italy had its repercussion in the Balkan peninsula in the southward drive of the Scordisci or Scordistae, who defeated and killed a praetor in 118 B.C. and won a more important victory over C. Porcius Cato, the consul of 114 B.C., which enabled them to push on southwards and sack Delphi. A series of consuls were sent to restore the position, and M. Minucius Rufus (as is shown by his own and his brother's dedications at Delphi) defeated both them and their Thracian allies, the Bessi, and triumphed in 106 B.C. Some years later there was further trouble, and T. Didius, who was praetor shortly before 100 B.C. (the exact year is uncertain), gained successes probably more important than those of Minucius, since they were followed by several years of peace, and not only enabled Didius to celebrate a triumph (probably in 100 B.C., since, though the *Fasti Triumphorum* are lost for that year, the Chronicle of Eusebius has the entry *Thracas a Romanis victi*) but also carried him—a *novus homo*—to the crowning height of the consulship in 98 B.C.; this he followed up by a successful campaign in Spain leading to a second triumph.

Didius is reported by Florus (almost our only authority, and a poor one) to have driven back the Scordisci *intra suam Thraciam*; but the words of our inscription seem to show that he added some Thracian territory to the province. The law suggests that the organisation of these acquisitions was a pressing task (especially if, as seems probable, εὐ[θῶς] be the right reading in B 28) and it would therefore be natural to date our document to the year 100 or 99 B.C. at latest: but this again is by itself uncertain. We know nothing of any immediate steps taken on the Macedonian frontier: but it is just worth while to note that some years later the issue of a local coinage was resumed and the name of a quaestor AESILLAS is found on the coins of two successive governors, L. Julius Caesar and C. Sentius, the latter of whom administered the province for several years: after the coinage of Aesillas ceased, Bruttius (or Brettius) Sura struck coins as *legatus pro quaestore*.¹

3. Nor again can we draw any clear inference from the mention

¹ For the coins of Aesillas reference may be made to Gaebler, *Die antiken Münzen Nordgriechenlands*, iii (1), Berlin, 1906, p. 73; cf. Grose, *Catalogue of the McClean Collection of Greek Coins in the Fitzwilliam Museum*, ii (1926), p. 86. I may, in passing,

remark that the statement made in Pauly-Wissowa, ii, A 2 Sp. 1510, s.v. Sentius no. 3, that Bruttius Sura (the name is written Βραττιος (i.e. Brettius) in *I.G.* 9 (2), 613) struck coins under L. Julius Caesar as 'legatus pro praetore' is incorrect.

of Lycia, Pamphylia and Lycaonia in the earlier and fragmentary clauses of the law. One might be tempted to think that not only Lycia—a free city-league in 100 B.C. and of course much later—but Pamphylia was still extra-provincial; and it is probable that the province of Cilicia, as administered in and after 92 B.C., included Pamphylia, since the governor who succeeded Sulla as its governor, Q. Oppius, is called *στρατηγὸς Παμφυλίας*.¹ Again, the context in which Lycaonia is mentioned might suggest that at the time when the law was passed that region was ruled by a potentate under Roman protection, and this would not be improbable in 100 B.C., when the aggression of Mithradates Eupator made it advisable for the Romans to encourage any effort to stem the tide of his advance. The petty principalities set up a little later in this and the adjacent regions, e.g. by Zenicetes, who was defeated by Servilius Isauricus in or about 76 B.C.,² and by Antipater of Derbe, the friend of Cicero,³ show what might be attempted in this direction.

But the dating of the law really turns mainly on the situation implied in the list of kings to whom letters are to be sent by the consuls about to assume office. These are

- (i) the king reigning in Cyprus;
- (ii) the king reigning in Alexandria and Egypt;
- (iii) the king reigning in Cyrene;
- (iv) the kings reigning in Syria.

If we assume that the date of the law is 101-100 B.C., 'the king reigning in Cyrene' will be Ptolemy Apion. He was a natural son of Ptolemy Euergetes II who, on his death in 116 B.C., had bequeathed to him this appanage, of which he retained undisturbed possession until his death in 96 B.C. Cyprus and Alexandria, at the date mentioned, were in the hands respectively of Ptolemy Soter II (nicknamed Lathyrus) and his younger brother Ptolemy Alexander I, who owed his position to the favouritism of his mother, the arch-intriguer Cleopatra III. On her death in 101 B.C. the brothers seem to have come to an amicable arrangement, and Alexander married Berenice, daughter of the king of Cyprus. And if this is the date of our law there is a simple reason for the mention of the king reigning in Cyprus before the king reigning in Alexandria, to wit, the fact that he was the elder of the two brothers.

Finally, we come to 'the kings reigning in Syria'. What was the position in 101-100 B.C.? Since 117 B.C. the throne of Seleucus had been disputed by two candidates, Antiochus VIII Grypos, 'the hook-nosed', son of Demetrius II, and his first cousin Antiochus IX Cyzicenus, son of Antiochus VII. The story of their vicissitudes is in its details obscure, but there is no great reason to doubt that a partition of the kingdom took place, by which Syria proper (with

¹ Ath. 5, 213a.

² cf. Ormerod in *J.R.S.* xii, p. 40.

³ *Fam.* xiii, 73, 2, cf. Strab. xii, 1, 4, xii, 6, 3, xiv, 5, 24.

Antioch as its capital) was separated from 'Hollow Syria', including at this period Phoenicia and Palestine, with its capital at Damascus, and that the arrangement remained in force until the murder of Antiochus VIII by his favourite Heracleon in 96 B.C.¹

The provisions of the law are therefore entirely consistent with the diplomatic situation existing in 101-96 B.C. They are difficult, if not impossible, to reconcile with the situation in 74 B.C. or 67 B.C.

(1) There was no king (to our knowledge) reigning in Cyrene after 96 B.C., when Ptolemy Apion died and bequeathed his kingdom to the Roman people. The Senate did not at once accept the bequest, but contented itself with appropriating the royal domain lands, and declared the five Greek cities of Cyrenaica 'free.' During the second Mithradatic war Lucullus found this district in a state of great confusion owing to the rise of tyrants, of whom we hear something in Plutarch and Polyænus; but there is no question of the restoration of

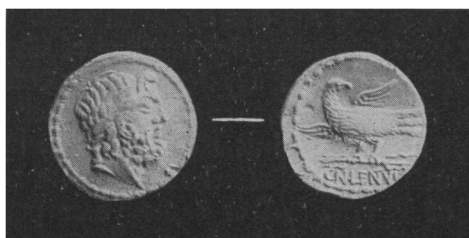


FIG. 55. *Aureus* OF CN. CORNELIUS LENTULUS MARCELLINUS IN THE BRITISH MUSEUM.

the kingdom, and in 74 B.C., as we learn from a fragment of the *Histories* of Sallust preserved in the Aurelian palimpsest² P. Cornelius Lentulus Marcellinus was sent as quaestor *in novam provinciam Curenas*. It has been suggested that there is a confusion here with Cn. Cornelius Lentulus Marcellinus, one of Pompey's subordinate generals in the war against the pirates, to whom the conduct of operations on the coast of North Africa was allotted in the scheme of commands. He is honoured by the people of Cyrene as their patron and saviour in an inscription (Dittenberger, *S.I.G.* 750); and I feel no doubt that he struck the beautiful *aureus* of which one specimen exists in the British Museum and another in Paris (fig. 55).³ Pompey includes Κυρηναϊκή in the list of

¹ The fullest presentation of the evidence for these events will be found in Bouché-Leclercq, *Histoire des Séleucides*, vol. i (1913), pp. 405 ff., vol. ii (1914) pp. 602 ff.

² *Hist.* ii Fr. 43 Maurenbrecher.

³ Mr. Grueber (*Coins of the Roman Republic*, ii, 360) assigned this coin to a Spanish mint for no adequate reason. The date of the *silver* coinage struck by Lentulus as quaestor or cur(ator) den(ariis) fl(andis) (Grueber, *op. cit.* p. 358 f.) requires further

countries conquered by him, which is quoted by Diodorus,¹ and it has been suggested (in order that the law before us may be identified with the *Lex Gabinia*) that the annexation of the country took place under his auspices, and that before that time some puppet-king may have been recognized by the Romans—perhaps installed by Lucullus: but this is a gratuitous hypothesis.

- (2) The tangled story of the last years of the Seleucid monarchy in Syria is difficult to unravel; and after the murder of Antiochus the Hook-nosed, in 96 B.C., and that of his rival, Antiochus Cyzicenus, in 95 B.C., there were occasions on which it might have been possible to speak of 'kings reigning in Syria'; but the year 67 B.C. was scarcely one of them. In 83 B.C. Tigranes of Armenia overran Syria, and Cleopatra Selene was forced to fly with her sons. Cleopatra had had a chequered career. Married firstly to Ptolemy Soter II, king of Cyprus, she was taken from him by his mother, Cleopatra III, and made to marry his enemy, Antiochus the Hook-nosed; and in the year following the murder of Grypos she married his rival Antiochus of Cyzicus. Cyzicenus died shortly afterwards, and she then married as her fourth and last husband his son Antiochus X, the Pious, by whom she had two sons, on whose behalf she laid claim to the thrones of Syria and of Egypt. After some years passed in obscurity *in angulo Ciliciae* she brought the boys to Rome in 73 B.C. After a time they were politely 'bowed out' by the Senate, and as they were returning to the East, Verres, then governor of Sicily, relieved the elder boy of some useless *impedimenta* (as Verres considered them) in the shape of gold plate! A year later the unfortunate Selene, who had taken up her abode at Ptolemais (Acre) was besieged and taken prisoner by Tigranes, who some time later caused her to be put to death at Seleucia on the Euphrates.² How the boys escaped we do not know; but it appears from Appian³ that in the following year, when, owing to the successes of Lucullus, Tigranes was forced to evacuate Syria, the people of Antioch hailed Antiochus, 'Asiaticus', as he was called, as their lawful king, and he enjoyed that title, for what it was worth, for about four years. There was an attempt to set up a rival of the other line in 65 B.C., which ended in disaster for both

discussion; Mommsen's attempt to bring it into connexion with the statement of Plutarch (*Lucull.* 13), which he interprets as implying that he struck eighteen million *denarii* as quaestor *ex senatus consulto* in 74 B.C., is a hazardous speculation. On the difficult questions relating to the relationship

of the Lentuli Marcellini and the career of the first-named see Pauly-Wissowa, *iy*, pp. 1389 ff., nos. 230, 231, 238.

¹ 40, 6.

² Joseph. *Ant. Jud.* xiii, 16, 4; Strab. xvi, 2, 3.

³ *Syr.* 49.

parties; but it seems incredible that in 67 B.C. the Romans should have addressed a diplomatic missive to 'the kings reigning in Syria.'

- (3) The case of Egypt and Cyprus is somewhat different. On the death of Ptolemy Soter II in 80 B.C., Sulla, then at the height of his power, imposed upon the Alexandrians a king in the person of Ptolemy Alexander II, who had been deposited many years before in the island of Cos by his grandmother, Cleopatra III, and had been carried off thence in 88 B.C. by Mithradates the Great, who gave him an *éducation de prince* at the Pontic court. He had, however, made good his escape to Sulla in 83 B.C., and accompanied him on his return to Italy. Perhaps it was Sulla, too, who conceived the idea of marrying him to his stepmother, the daughter of Ptolemy Soter II, and therefore the last legitimate representative of the elder branch of the Ptolemies. But Alexander had soon had enough of her, and murdered her after nineteen days of married life. This was too much for the Alexandrian mob, who haled their king to the gymnasium and there tore him in pieces. Thus ended the legitimate line of the Ptolemies; but bastards were not lacking, and two were soon installed, one in Alexandria and the other in Cyprus. The former was known to his friends as the New Dionysus and to his enemies as the Piper; and his claims were never formally recognised by the Romans (who professed to be in possession of a will made by Alexander II bequeathing Egypt to the Roman people) until the year 59 B.C., when (after various proposals for the annexation of Egypt had fallen through owing to political machinations) Julius Caesar, for a substantial consideration, carried a law which confirmed the upstart in his title. It is therefore more than questionable whether, in 67 B.C., the Senate would have addressed him by the name of king. On the other hand, the king of Cyprus was (if we may trust Cicero¹) treated as a friend and ally until, in 57 B.C., the island was confiscated in virtue of a law passed by Clodius in order to get rid of the nuisance of Cato. Clodius had not forgotten how, in 67 B.C., Ptolemy had turned a deaf ear to his appeals for a loan of two talents to be paid as ransom to the pirates into whose hands he had fallen. Ptolemy Cyprius, therefore, is the only king amongst those enumerated in the law, of whom we can say with any probability that he might have been the recipient of an official letter from the consuls of 67 B.C.

On the whole, therefore, our conclusion must be that the diplomatic situation envisaged by the law is fully consistent with the date 101-96 B.C., but irreconcilable with that of 67 B.C.

¹ *Sest.* 27.

There are other indications which point in the direction of the earlier date. It is unfortunate that in the three passages where provincial governors are referred to (B 20, B 27, C 8) there are lacunae in the inscription; but in every case the title used begins with the word στρατηγός.

1. B 20 has been discussed above, and I there proposed to restore στρατ[ηγός ὑπατος ἢ ἀνθύπατος] i.e. *consul prove consule*.
2. In C 8 the same title (which M. Colin prints) precisely fills the gap and may, I think, be regarded as a certain restoration. It is unfortunate that the editor of *Supp. Epigr.* printed στρατ[ηγός ἢ ὑπατος ἢ ταμίας] placing *praetor* before *consul*.
3. B 27 presents a somewhat more difficult problem. M. Colin proposes στρα[ατηγός ἡμέτερος ὑπατος ἢ ἀνθύ]πατος but it is hard to believe that *consul noster* could have been written in a Roman law. στρα[ατηγός ὑπατος ἢ ἀνθύ]πατος does not suffice to fill the lacuna. Moreover, a *praetor* might have been regarded as more suitable than a *consul* for the governorship of Macedonia at the time when the law was passed. I therefore propose (with some diffidence) στρα[ατηγός ἢ ἀντιστράτηγος ἢ ἀνθύ]πατος—*praetor prove praetore prove consule*, i.e. a praetor in office or one possessing *imperium prorogatum* with either of the grades of rank in which it could be held. The restoration precisely suffices to fill the lacuna.

Now the titulature στρατηγός ὑπατος ἢ ἀνθύπατος agrees with the terminology current in 101-100 B.C., but is inappropriate to the year 67 B.C.—in substance, because, as is well known, magistrates in office were not at that period normally sent out to fill provincial governorships, and also in form, because the titles στρατηγός ὑπατος and στρατηγός ἀνθύπατος had then been abbreviated to the simple ὑπατος and ἀνθύπατος. Without traversing in detail the ground covered by M. Maurice Holleaux in his careful study of the question,¹ I will indicate his conclusions briefly and endeavour to show that in one respect they may be capable of modification. The facts seem to be these:—

- (i) στρατηγός ὑπατος (to which Ῥωμαίων is frequently added in communications made to the allies and subjects of Rome) is the regular equivalent of consul from the beginning of the second century B.C. onwards:
- (ii) This title was commonly abbreviated to ὑπατος by about the middle of the century; it is found in the history of Polybius,

¹ Στρατηγός ὑπατος: 'étude sur la traduction en grec du titre consulaire' (*Bibliothèque des écoles françaises d'Athènes et de Rome*, cxiii, Paris, 1918).

although the derivatives ὑπατεία, ὑπατικός and ὑπατεύω have not yet made their appearance :

- (iii) About the same time στρατηγός ἀνθύπατος was formed by analogy to represent *pro consule*, and this title in its turn was abbreviated to the simple ἀνθύπατος.
- (iv) Whilst the abbreviated forms become increasingly frequent especially in the *text* of letters, honorary decrees, etc., the longer forms στρατηγός ὑπατος and στρατηγός ἀνθύπατος continue to be used in preambles, titles, etc., down to the time of Sulla.

With regard to the title στρατηγός ἀνθύπατος in particular, an examination of the instances collected by M. Holleaux¹ has convinced me that M. Foucart was right in stating² that Sulla was the last person to whom it was applied.³ The apparent exceptions to this rule vanish, I believe, on a closer inspection.

- (i) M. Antonius (*Rev. Ét. Cr.* 1904, 210, note 2 (Th. Reinach), *Journal des Savants*, 1906, 576 (Foucart)) is the famous orator, whose command in Cilicia falls in 102 B.C., and, it may be added, his quaestor A. Gabinius may well be the father of the proposer of the Lex Gabinia: the later and (as I believe) incorrect doctrine is accepted by Hiller von Gärtringen in the note to Dittenberger, *S.I.G.* 748, 31.
- (ii) Q. Ancharius Q. f. (*Klio*, 1915, 126, note 99) is not (as Pomtow supposed) the person named as ἀντιπαμίας (*pro quaestore*) in the inscription of 71 B.C. from Gytheum (Dittenberger, *S.I.G.* 748, 26), but his father, who was killed as a *praetorius* in the civil strife of 87 B.C. (App. *B.C.* 1, 73, Plutarch *Mar.* 43).
- (iii) L. Calpurnius Piso (*Bull. Corr. Hell.* xxxi (1907) 337, note 2) is not Cicero's enemy, consul in 58 B.C., to whom the shorter title ἀνθύπατος is applied in an inscription from Delos (*Bull. Corr. Hell.* xxxiii (1909), 504), but his father who, I suggest, may be identified with the L. Piso mentioned (apparently as a governor of Asia) in *Inscr. Prien.* 121. 21.
- (iv) An unnamed στρατηγός ἀνθύπατος of *I.G.* 12 (8), 189 (from Thasos), commanded the sailors of a Cyzicene squadron, which Hiller von Gärtringen rightly identifies with that commanded by Aulus Terentius Varro πρεσβευτάς (*ib.* 260), and this Varro is in his turn identifiable with the πρεσβευτάς Ῥωμαίων of the Rhodian decree in honour of Sulla mentioned above (Dittenberger, *S.I.G.* 745, 10).

¹ *op. cit.* p. 13, note 4, p. 31 ff.

² *Revue de philologie*, xxiii (1899), 262.

³ The reference is to the well-known Rhodian

decree published by Dittenberger (*S.I.G.* 745, 3) and the base from Halicarnassus (Dessau, 8771). Foucart's view is accepted by Hiller von Gärtringen in his note on the former inscription.

I conclude, therefore, that the titulature employed points to a period not later than that of Sulla.

Before we examine the form of the *sanctio* from which a probable conclusion may, I think, be drawn as to the date of our inscription, a few words must be said with regard to two provisions in the law upon which arguments as to its date have been founded.

A. In B 6 the consul is directed to send letters to all the peoples in alliance with Rome, enjoining upon them the duty of doing all in their power to ensure that πολῖται Ῥωμαίων σύμμαχοί τε ἐκ τῆς Ἰταλίας Λατῖνοι shall be able to sail the seas and carry on their trade in peace. The Greek words are taken to be a rendering of *cives Romani sociique ex Italia Latini*, and M. Cuq and Mr. Cary argue that this points to a date later than the Social War, since at an earlier time the Italian *socii* could not fail to be mentioned. But on the other hand explicit mention of Latin allies is almost more strange in 67. The Transpadanes, it is true, might be classed under that head; and this would certainly be more probable than the curious explanation offered by M. Cuq, namely, that these Latini of 67 B.C. are persons who failed in 88 B.C. to take advantage of the *Lex Plautia Papiria* and acquire Roman *civitas*, a most remarkable suggestion in view of the fact that, as Aulus Gellius (iv, 4) explicitly tells us, even before the passing of the *Lex Plautia Papiria*, the *Lex Julia* had bestowed the *civitas* on *universum Latium*. It has, in fact, been generally assumed that the mention of Latini points to a date prior to the Social War. The real or apparent omission of the *socii Italici* may there be accounted for in one of two ways:

- (i) The translator failed to render his Latin correctly. It is well known that Livy more than once writes *socii nominis Latini* where the two classes are certainly to be distinguished (xxi, 55, 4; xxxviii, 35, 9); and the original text may have run *cives Romani socii Italici nominis Latini* with a similar asyndeton which the translator misunderstood: but
- (ii) it was quite in the Roman manner to claim special privileges for themselves and their allies of the *nomen Latinum*, ignoring the *socii* in general. M. Colin (*Bull. Corr. Hell.* xlviii (1924), p. 304) draws attention to two such cases recorded by Livy.
 - (a) Referring to the terms made by Rome with the Ambraciots in 187 B.C., Livy writes (xxxviii, 44, 4):

portoria quae vellent terra marique caperent
dum eorum immunes Romani ac socii nominis
Latini essent.

(b) In 168 B.C. the Romans complained to Gentius (Liv. xl, 42, 4) :

multis civibus Romanis et sociis Latini nominis iniurias factas in regno eius.

And it is quite conceivable that a conventional formula of this kind might be retained in a law of 101-100 B.C.

B. In B 17 the consul is directed to give to the ambassadors from Rhodes an audience of the Senate ἐκτὸς τῆς συντάξεως i.e. *extra ordinem*,¹ and this he may do, if we accept the probable restoration of l. 19 proposed by M. Colin, ἀζ[ημίω] i.e. *sine fraude sua*. This, it is argued by M. Cuq, shows that the *Lex Gabinia de senatu legatis dando*, which many authorities assign to the tribunate of Gabinius (67 B.C.), was already in force, and that a consul who violated it required an explicit dispensation from its provisions. It is, of course, undoubtedly true that Gabinius, when tribune, passed legislation with regard to *legationes*, by which their members were prohibited from borrowing money at interest whilst in Rome, and it has therefore been found natural to place his law relating to their audiences of the Senate in the same year. But we must remember

- (i) that Gabinius was praetor in 61 B.C., and may have proposed his law in that capacity, as was, in fact, suggested by Willems ;²
- (ii) that Gabinius was consul in 58 B.C., and may have carried his law in that year when we find him, in fact, proposing legislation (in conjunction with his colleague Piso) with regard to Delos (*Supp. Epigr.* i, 335) ;
- (iii) that all that we know positively of his law concerning *legationes* is derived from the mention made of it in a letter written by Cicero in the year 54 B.C.,³ which shows that the consul was obliged to give such audiences on every available day from Feb. 1 to Mar. 1 ; and
- (iv) that the effect of the law was merely to give a legal sanction to a Standing Order of the Senate which, as is shown by two passages in the Verrine orations of Cicero (i, 90 ; ii, 76) and a note of Pseudo-Asconius (p. 184 Orelli = p. 244 Stangl), was already in force in 71 B.C., and may have been so at a considerably earlier date.

Thus the argument put forward by M. Cuq seems inconclusive ; the expression ἀζ[ημίω ἀντὶ ἐ]ξέστω ποιῆσαι is merely the equivalent of such a modern phrase as ' notwithstanding any Standing Order to the contrary '.

We are therefore, in my belief, perfectly free to place this law in the period to which its allusions point, viz. 101-100 B.C. And

¹ cf. ἐκτὸς τὸν στίχου in the *S.C. de Stratonicibus* (Dittenberg-r, *O.G.I.* 441. 63).

² *Le Sénat de la république romaine*, ii, p. 157.

³ *Ad Quint. Frat.* ii, 11 (13), 3.

there seems to be a special reason for doing so, when we examine the provisions of the *sanctio*. This part of the law, most of which is well preserved, is extremely stringent. Not only does it prescribe the heavy penalty of 200,000 HS. for every infraction of the law, and for every act of omission or commission which interferes with the infliction of such a penalty, but it enacts that the Governors of Asia and Macedonia shall swear to observe the Law within ten days of being informed of its enactment, that the magistrates in office (with certain exceptions) shall take a similar oath within five days, and that future magistrates (again with an exception) shall likewise swear to obey it within five days of entering upon office. Now the device of making a law effective by imposing an oath of observance is not unfamiliar. In 59 B.C., for example, Julius Caesar inserted such a clause in his *Lex Julia Agraria*, and Plutarch in his life of Cato the Younger (ch. 32) tells us that both Cato and Favonius only took the required oath after long hesitation. In his special *Lex de agro Campano* he went further and enacted that every candidate for office should pronounce a solemn curse upon himself (*exsecratio*) should he ever call in question the validity of the title granted to occupiers of land dealt with by the Julian laws.¹ But there are closer parallels to the provisions of our law. In 100 B.C. Saturninus carried a *Lex agraria* to which he appended a provision requiring not only magistrates but all senators to swear to its observance, and Metellus Numidicus (who as censor in 102 B.C. had only been prevented from erasing Saturninus' name from the roll of the Senate by the veto of his colleague) refused to take the oath and went into exile. This drastic provision has only one parallel, and that is to be found in the elaborate *sanctio* attached to the so-called Latin Law of Bantia,² which is inscribed on the reverse of a document in the Oscan dialect, making a number of changes in the municipal constitution of Bantia, and introducing Roman features and titles. The Latin law was dated by Mommsen to the period 133-118 B.C., on the ground that in the list of magistrates who are required to take the oath of due observance there are included Land Commissioners (*III viri agris dandis assignandis*) who, as he supposed, could only be the members of the Gracchan Land Commission which was abolished at some date prior to 111 B.C. This argument is not conclusive. Every Agrarian Law involved the creation of commissioners—as Cicero says (*Leg. Agr. 2, 17*), *totiens legibus agrariis curatores constituti sunt III viri*—and though no doubt the usual practice was (as the choice of the word *curatores* by Cicero shows) that their office should be a *cura* and not a *magistratus*, there is good reason to think that Saturninus, posing as the successor of the Gracchi, would revive their Land Commission in its magisterial form. Since after the fall of Saturninus the *Leges Appuleiae*, or some of them,

¹ Cic. *Att.* ii, 18, 2 = How, *Select Letters of Cicero*, No. 10, 2.

² *C.I.L.* i (2)². 582, Bruns, *Fontes iuris romani*, p. 53.

were declared invalid by the Senate, his Commission had only an ephemeral existence; but there is no reason to regard the mention of *tresviri agris dandis adsignandis* as an objection to dating the Latin *Lex Bantina* to one of the tribunes of Saturninus. It has been, in fact, so dated by Maschke (*Zur Theorie und Geschichte der römischen Agrargesetze*, p. 78), followed by F. W. Robinson (*Marius, Saturninus and Glaucia*, p. 81). Unfortunately both these writers, misled by the desire to bring the provision requiring senators as well as magistrates to swear observance into connexion with the famous story of Metellus Numidicus, have identified the *Lex Bantina* with the *Lex Agraria* of Saturninus. They should have been saved from this error by the mention in the text (1, 15) of a *iudex ex hac lege plebiue scito factus*, who, as the parallels from the *Lex Acilia repetundarum* show, is clearly the presiding magistrate in a *quaestio* set up by the law. This court is easily identified as the *quaestio de maiestate* set up by Saturninus in a *Lex Appuleia* to which reference is made by Cicero in several passages in the *de Cratore*,¹ where the orator Antonius (as a character in the dialogue) recalls the famous trial under this law in which he took part as the advocate of C. Norbanus, who had been his quaestor during his campaign against the Cilician pirates in 102 B.C.² I feel little hesitation therefore in identifying the *Lex Bantina* with the *Lex Appuleia de maiestate*³. We have thus two parallels for the elaborate *sanctio* of our law, including an Oath of Due Observance, in the period of Saturninus' ascendancy. Our law, it is true, does not impose such an oath upon all senators: but, so far as present and future magistrates are concerned, its provisions are (as has, of course, been pointed out by the editors) closely parallel to those of the *Lex Bantina*. There are, however, exceptions. Amongst present office-holders tribunes and *ἐπαρχοι* are excused from taking the oath; amongst those of future years *ἐπαρχοι* only are exempt. The title *ἐπαρχος* has been variously explained. It is, of course, familiar as a translation of the Latin *praefectus* in all its uses: but the only magistrates of the people to whom that title could be applied at the date of this law—other than the *praefecti urbi* appointed to exercise authority in Rome in the absence of the consuls and praetors during the Latin games—were the four *praefecti* elected *populi suffragio* to administer justice in the assize towns of Campania, who were included in the group of minor magistracies known as the *vigintisexuiri*⁴; and they would scarcely be worth mentioning here. M. Colin

¹ ii, 25, 107; ii, 49, 201.

² It would be irrelevant here to discuss the date of this trial, on which see the Appendix to Greenidge and Clay, *Sources for Roman History*, B.C. 133–70, p. 226.

³ The question whether this law set up a special or a permanent *quaestio de maiestate* cannot be

discussed here. It is clear from Cicero's allusions in *de Or.* ii, 49, 201 and *Part. orat.* 30, 105 that it dealt with the definition of *maiestas* and of the offence described as *minuere maiestatem*. Bantia was no doubt bound to Rome by a *foedus* containing the usual clause *maiestatem populi Romani comiter conservanto*.

⁴ Festus s.v. *praefectura*.

takes ἑπαρχοὶ to mean 'provincial governors' and as ἐπαρχεία was the regular Greek rendering of *provincia*,¹ the word ἑπαρχός might well be coined as a translation of *qui provincias obtinent*. M. Cuq, on the other hand, thinks that the word denotes the special officers appointed under the law, i.e. the *legati pro praetore* placed under Pompey's orders in 67 B.C.; but this suggestion naturally falls to the ground if the law is shown to be of earlier date.

The question remains to be asked, why are the tribunes of the current year exempted from the oath? Two reasons may be suggested for the exception.

- (i) Cicero argues, in a letter written to Atticus in 58 B.C.,² that a law proposed on his behalf in that year by eight tribunes could not be held to violate the *sanctio* (in the usual form) attached to the Lex Clodia which brought about his exile, *lege enim collegii sui non tenebantur* (whereas, as he implies, their successors might be afraid to incur the *sanctio* of the Clodian law). From this Mommsen³ inferred that the *sanctio* attached to a law did not bind the colleagues of the magistrate who proposed it.

In the same note Mommsen refers to the statement of Tacitus (*Ann.* xiii, 11) that in A.D. 55 Nero, consistently with the liberal programme put forward at the beginning of his reign in the famous speech composed for him by Seneca, forbade his colleague in the consulship, Antistius, to swear to observe his *Acta*, and deduces the doctrine that when a law prescribed an Oath of Observance this did not apply to the colleagues of the proposer.

- (ii) Another explanation is perhaps more probable. Our law, although passed, if the dating proposed is correct, during the ascendancy of Marius, Saturninus and Glaucia, and implying the right of the people to determine foreign policy, of which the career of Marius himself had furnished the most conspicuous example, was not, like the other *leges Appuleiae*, and especially the agrarian law, politically contentious in any high degree. M. Colin, indeed, propounds the view (partly based on his erroneous restoration of B 20) that it was intended to pave the way for an exceptional command in the East to be conferred in due course upon Marius. It seems unnecessary to go so far as this, although we can feel little doubt that the proposers of the law were fully alive to the ominous situation in the Near East brought about by the aggressive attitude of Mithradates and the possibility (which was in due course realised) of his alliance with the Cilician pirates.⁴ M. Antonius, by his successful campaign

¹ It is first found in the inscription of about 140 B.C. relating to the arbitral award of the Milesians in the age-long dispute concerning the *ager Dentbeliates* (Dittenberger, *S.I.G.* 683. 54, 64).

² *Ad Att.* 3, 23, 4 = How, *Select Letters of Cicero*, 14, 4.

³ *Staatsrecht*, 1, 291, note 3.

⁴ In discussing this alliance Prof. Ormerod (*Piracy*

in Cilicia, had taken the first steps towards checking the prevalence of piracy, and the time had come for consolidating the gains which he had made. Marius and his supporters, Saturninus and Glaucia, took the matter, it is true, out of the hands of the Senate; but they could naturally count on the support of the commercial and banking interests; and it is inherently probable that this bill, like the *Lex Antonia de Termessibus* (according to the probable restoration of its preamble)⁴ and the famous 'Law of the Ten Tribunes' (passed in 52 B.C.) dispensing Julius Caesar from the necessity of personal canvass in 49 B.C., was backed by the whole tribunician college.

This would furnish a simple and adequate reason for the express exemption of the tribunes of the year from the Oath of Observance, and would also explain why, unlike some at least of the other *leges Appuleiae*, it was not afterwards annulled and its text erased from the monument of Aemilius Paulus. The precise date at which it was passed must remain uncertain; if, as I think probable, ἐγένετο in B 20 has a future perfect sense, we can place it at any moment between the election in 101 B.C. of Marius and Valerius Flaccus to the consulship of 100 B.C. and the assignment of *provinciae* made in the latter year. In any case it is an interesting monument of a short-lived phase of democratic government and an attempt to substitute the people for the Senate in the conduct of Imperial affairs.

in the Ancient World, p. 210) draws an interesting parallel between the relations of Mithradates with the pirates and those of the Sultans with the Barbary corsairs in the sixteenth century.

⁴ Dessau 38, cf. 5800; Niccolini, *Fasti Tribunorum plebis*, p. 371 f.

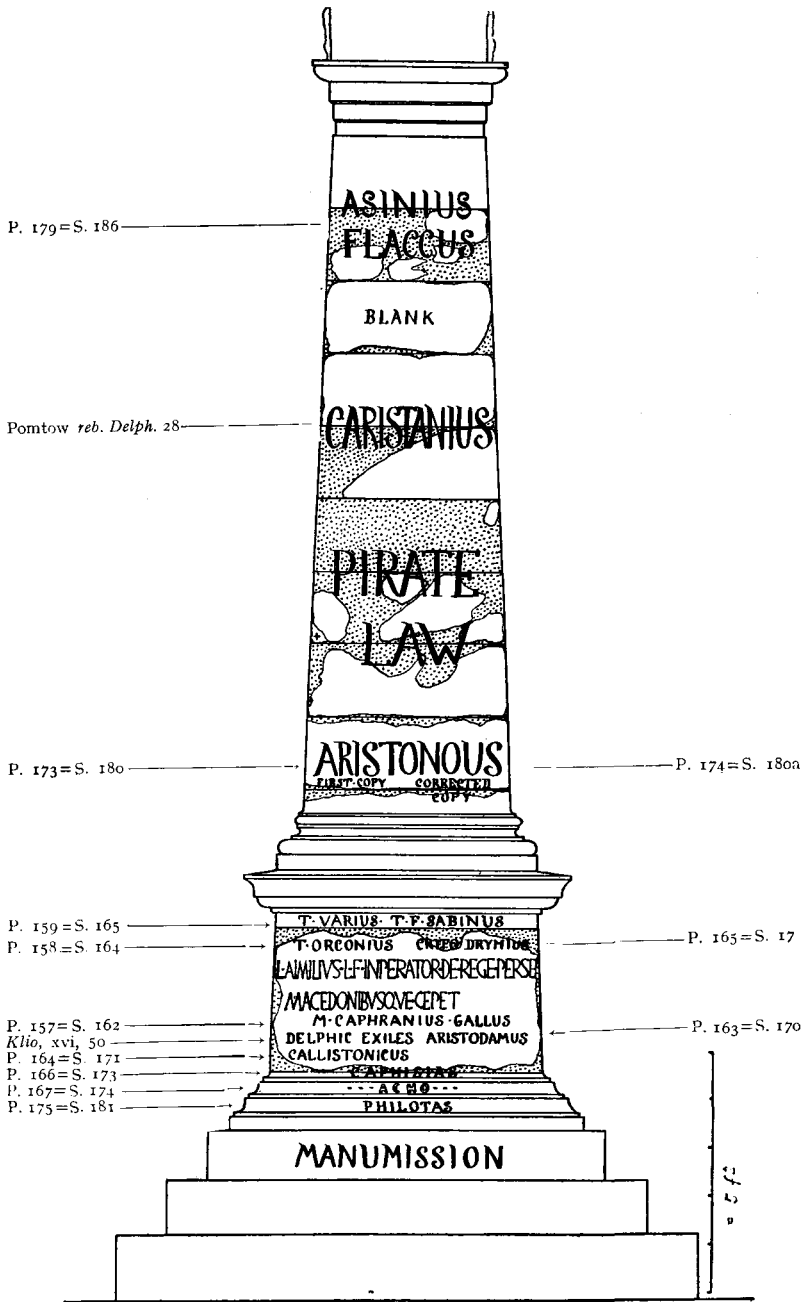


DIAGRAM SHOWING THE DISTRIBUTION OF INSCRIPTIONS ON THE MONUMENT OF L. AEMILIUS PAULUS AT DELPHI.

[P=Pomtow, *Klio* xvii, S=*Supplementum Epigr. Graecum*]. See pp. 155, ff.